THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.10057 of 1997

Dated:08.3.2007

Between
B.Narayanamma

.....Petitioner

and

1.The Industrial Tribunal cum Labour
Court, Visakhapatnam and others.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.10057 of 1997

ORDER:

This writ petition is directed against an order made in CMP No.56 of 1988 dated 1.9.1989 on the file of the Industrial Tribunal-cum-Labour Court, Visakhapatnam, whereunder the claim of the petitioner under sub-Section 2 of Section 33-C of the Industrial Disputes Act, 1947 for Rs.20,220/- towards difference in wages, pay in lieu of notice and retrenchment compensation was answered partly by directing the respondents to pay a sum of Rs.1,070/-

towards pay in lieu of notice and retrenchment compensation.

It appears that the petitioner was employed as a Mate on 10.1.1969 on casual labour basis under permanent Way Inspector, Pithapuram. She had continuously worked till 31.08.1979, on which date she was retrenched from service without any notice and payment of compensation. According to her, she attained temporary servant status in May, 1969. She was paid only daily wages of Rs.1.50 and Rs.3/- as against the minimum monthly wages of Rs.180/- and Rs.400/-. Thus, she was entitled for a sum of Rs.20,220/- towards difference in wages pay in lieu of notice and retrenchment compensation.

A detailed counter-affidavit has been filed by the respondents before the Labour Court stating that as per Section 33-C (2) of the Act, the petition is not maintainable since the dispute is under the exclusive jurisdiction of industrial tribunal under Section 10 of the Act. The petition is highly belated and the same is barred by limitation. Further, it was denied that the petitioner worked continuously from January 1969 to April 1975 and from November 1978 to April 1979.

The Labour Court, after a detailed consideration of the rival contentions and the material placed before it, came to a conclusion that the petitioner was employed during 1969 to 1971 with some artificial breaks. Therefore, she is entitled for retrenchment compensation at the rate of 15 days wages for those three years. She was again employed in 1973 and 1974 with artificial breaks as evidenced by Ex.W1. Therefore, she is entitled for retrenchment compensation for those two years. Further, it was found that she is not entitled for any amount towards difference in wages. This finding was arrived on the basis of the evidence of MW1 and Ex.M1. Further, it is also held by the Labour Court that absolutely there is no evidence to prove that the petitioner was not paid proper wages as and when she was engaged as casual labour. Therefore, she is entitled for regular scale of pay prior to 1974 and thus allowed the petition partly directing the respondents to pay Rs.1,070/- towards pay in lieu of notice and retrenchment compensation.

I am of the opinion that the Labour Court has not committed any error in

coming to such a conclusion. No interference is called for by this Court under Article 226 of the Constitution of India. Writ petition is devoid of merits and is liable to be dismissed.

Accordingly, writ petition is dismissed. No costs.

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8-3-2007

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